

ALCOHOLIC BEVERAGES DIVISION[185]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 123.21, the Alcoholic Beverages Division hereby gives Notice of Intended Action to amend Chapter 5, “License and Permit Division,” and Chapter 12, “Forms,” Iowa Administrative Code.

The proposed amendments in Item 1 update citations to the Iowa Code. In addition, the proposed amendments add language to describe the contents of the dramshop liability certificate of insurance and authorize the Division to request a duplicate copy of the policy, including endorsements. The contents of the dramshop liability certificate of insurance, including the provision allowing the Division to request a duplicate copy of the policy, are currently in Chapter 12 and are being relocated to Chapter 5 for accessibility.

The proposed amendments in Item 2 further define occurrence-based policies. The amendments in Item 2 are a result of stakeholder consensus following a series of working meetings.

The proposed amendment in Item 3 adds language to clarify and accurately reflect the current practices of the Division on acceptable methods for notifying the Division of a dramshop liability insurance policy cancellation. The amendment in Item 3 is a result of stakeholder consensus following a series of working meetings.

The proposed amendment in Item 4 strikes the unnecessary word “all” in language that requires a dramshop policy to contain coverage to insure against civil tort liability of the insured. The amendment in Item 4 is a result of stakeholder consensus following a series of working meetings.

The proposed amendments in Item 5 strike and add language to update the reference to a subrule and to accurately reflect the current practices of the Division. The amendments illustrate how the licensee or permittee provides proof of financial responsibility to the Division. The amendments in Item 5 are a result of stakeholder consensus following a series of working meetings.

The proposed amendments in Item 6 add language to clarify the intent of the rule and strike language that is either unnecessary or redundant. The amendments clarify that a licensee or a permittee who owns and operates multiple licensed establishments may obtain a single dramshop insurance policy to cover all establishments. The amendments clarify that the single dramshop insurance policy that covers multiple licensed establishments must provide the minimum level of insurance coverage for all covered incidents that occur at each and every location during the license and policy term. The amendments clarify that the single dramshop insurance policy that covers multiple licensed establishments must meet all other provisions of the dramshop rule. The amendments in Item 6 are a result of stakeholder consensus following a series of working meetings.

The proposed amendment in Item 7 rescinds subrule 12.2(12) containing the Dramshop Liability Certificate of Insurance form and its contents. The contents of the Dramshop Liability Certificate of Insurance form will be relocated to subrule 5.8(1) for accessibility.

Interested parties may make written or oral comments on the proposed amendments on or before July 3, 2012. Comments should be directed to Stephanie Strauss, Executive Officer, Alcoholic Beverages Division, 1918 S.E. Hulsizer Road, Ankeny, Iowa 50021; or by E-mail to Strauss@IowaABD.com.

A public hearing on the proposed amendments will be held Tuesday, July 3, 2012, from 10 to 11 a.m. in the Board Room of the Alcoholic Beverages Division, 1918 S.E. Hulsizer Road, Ankeny, Iowa. The hearing room is fully accessible. Persons wishing to speak at the hearing will be asked to

give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments.

These amendments do not provide for waivers in specified situations. An agencywide waiver provision is provided in 185—Chapter 19.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code chapter 123.

The following amendments are proposed.

ITEM 1. Amend subrule 5.8(1) as follows:

5.8(1) *Current certificate required.* The dramshop liability certificate of insurance shall be issued by a company holding a current certificate of authority from the Iowa insurance commissioner authorizing the company to issue dramshop liability insurance in Iowa or issued under the authority and requirements of Iowa Code sections ~~515.147 to 515.149~~ 515.120 and 515.122. The dramshop policy shall take effect the day the license or permit takes effect and shall continue until the expiration date of the license or permit. A new dramshop liability certificate of insurance shall be provided each time the division issues a new license. The dramshop liability certificate of insurance shall contain the following: the name of the insurance provider; the policy number; the name and address of the insured; the license or permit number of the insured, if applicable; and the policy effective dates. Upon request, an insurance company or an insured shall provide to the division a duplicate original of the policy and all pertinent endorsements.

ITEM 2. Amend subrule 5.8(3) as follows:

5.8(3) *Permitted policies.* All dramshop policies issued under this rule shall be occurrence-based policies, not claims-made-based policies.

a. No change.

b. *Occurrence-based policies.* Occurrence-based policies provide liability coverage only for ~~injury~~ injuries or damage ~~damages~~ that occurs occur during the policy period regardless of the number of written claims made.

ITEM 3. Amend subrule 5.8(4) as follows:

5.8(4) *Cancellation.* An insurance company or an insured may cancel a liability policy by giving a minimum of 30 days' prior written notice to the division of the party's intent to cancel the liability policy. The 30-day period shall begin on the date that the division receives the notice of cancellation. The party seeking to cancel a liability policy shall mail written notice of such cancellation to the division in Ankeny, Iowa, by certified mail, or other method deemed acceptable by the division, and ~~further~~ shall mail a copy of the notice of cancellation to the licensee or permittee, at that party's post office address. The notice of cancellation shall contain the following: the name of the party to whom the copy of the notice of cancellation was mailed, the address to which the copy of the notice of cancellation was sent, the date on which the notice of cancellation was mailed, the date the liability policy is being canceled, and the liquor control license or permit number of the licensee or permittee to be affected by such cancellation.

ITEM 4. Amend subrule 5.8(5) as follows:

5.8(5) *Civil tort liability.* Subject to the ordinary or customary exclusions usually found in a policy of dramshop liability insurance, the policy shall contain coverage to insure against all civil tort liability of the insured, created under Iowa Code sections 123.92, 123.93 and 123.94, as those sections now exist or may hereafter be amended.

ITEM 5. Amend subrule 5.8(6) as follows:

5.8(6) *Proof of financial responsibility.* A licensee or permittee shall be deemed to have furnished proof of financial responsibility as contemplated under the provisions of Iowa Code sections 123.92, 123.93, and 123.94 when the licensee or permittee has filed with the division at its offices in Ankeny, Iowa, a properly executed form as described by ~~185—subrule 12.2(12)~~ subrule 5.8(1), or by other method deemed acceptable by the division.

ITEM 6. Amend subrule 5.8(8) as follows:

5.8(8) ~~Multiple establishment~~ Single insurance policies for multiple establishments. Any licensee that holds multiple licenses throughout the state may purchase ~~an aggregate~~ a single dramshop insurance policy for all locations provided that:

~~a. The amount of coverage for the aggregate policy is equal to the minimum required coverage multiplied by the number of establishments covered under the dramshop policy.~~

~~b.~~ a. The ~~aggregate~~ single dramshop insurance policy provides at least the minimum level of coverage required under this rule for each and every location covered by the policy.

~~c.~~ b. All other provisions of this rule are met by the ~~aggregate~~ single dramshop insurance policy.

ITEM 7. Rescind and reserve subrule **12.2(12)**.